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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,756	07/12/2001	Takashi Ochi	1199-DIV-00	3030

7590

07/23/2003

IP Department
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EXAMINER

TENTONI, LEO B

ART UNIT

PAPER NUMBER

1732

6

DATE MAILED: 07/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,756

Applicant(s)

OCHI ET AL.

Examiner

Leo B. Tentoni

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 17, 19 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 18, 20 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/589,223.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

(THREE (3) SHEETS)

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DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1732, Examiner Leo Tentoni.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/589,223, filed on 07 June 2000.

Specification

3. The abstract of the disclosure is objected to because in lines 1 and 8, ``comprising'' should be - - including - - (legal or claim-type phraseology should not be used in the abstract). Correction is required. See MPEP § 608.01(b).

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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5. The disclosure is objected to because of the following informalities: On page 1, the status of the parent application should be updated.

Appropriate correction is required.

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: PROCESS OF MAKING A YARN FROM TWO TYPES OF POLYESTER.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 17, 19, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 52021419.

Japan 52021419 (see the entire document, in particular, English-language abstract) teaches a process of making conjugate fibers from two types of polyester by spinning at a take-up speed of greater than 1100 meters per minute (which range encompasses values of 1200 meters per minute or greater, up to the breaking point), drawing at a temperature below 60°C and then heat treating (or heat setting).

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9. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by either Campbell (U.S. Patent 4,217,321) or Japan 57089617.

Campbell (see the entire document, in particular, col. 1, line 37 to col. 2, line 28; Table I) teaches a process of making conjugate fibers (and yarn therefrom) from two types of polyesters by spinning at a take-up speed of at least 5000 meters per minute (note especially Table I).

Japan 57089617 (see the entire document, in particular, English-language translation) teaches a process of making conjugate fibers from two types of polyesters by spinning at a take-up speed of at least 5000 meters per minute.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the

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inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 17, 19, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 52021419 in combination with Japan 11050329.

Japan 52021419 has been discussed previously in paragraph number eight (8) above, wherein the take-up speed is greater than 1100 meters per minute. Japan 11050329 (see the entire document, in particular, the English-language excerpt) teaches a process of making conjugate fibers from two types of polyesters at a take-up speed of 1450 meters per minute, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Japan 52021419 in view of Japan 11050329 principally in order to enhance the production of the conjugate fibers.

Allowable Subject Matter

13. Claim 21 is allowable over the prior art references presently of record.

14. Claims 18, 20 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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15. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art references presently of record, alone or in combination, disclose, suggest or teach a process of making a yarn of conjugate fibers from two types of polyesters including a take-up speed of at least 4000 meters per minute and a non-contact heater between the spinneret and godet roller as set forth in instant independent claim 21.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on Form PTO-892 were cited in the information disclosure statement (Paper No. 4, submitted on 30 September 2002), but there was no listing (i.e., no Form PTO-1449) of these references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (703) 308-3834. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Leo B. Tentoni

Leo B. Tentoni
Primary Examiner
Art Unit 1732

lbt
July 22, 2003